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AMENDED IN SENATE JUNE 22, 1999
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AMENDED IN ASSEMBLY APRIL 19, 1999
AMENDED IN ASSEMBLY APRIL 12, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1050

Introduced by Assembly Member Wright

February 25, 1999

An act to amend Sections 1871.7, 1872.4, 1872.8 and 1872.95 of, to add Sections 1872.45, and 1872.81 to, and to add and repeal Section 1874.8 of, the Insurance Code, and to amend Section 1806 of the Vehicle Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1050, as amended, R. Wright. Insurance: fraudulent claims.

(1) Existing law permits interested persons to file a civil action for civil penalties plus an assessment, as specified, against a person who knowingly employs runners, cappers, steerers, or other persons to procure clients or patients to perform or obtain services of benefits pursuant to Workers' Compensation or to obtain services or benefits under a contract of insurance, or that will be the basis of a claim against

an insured individual or his or her insurer. Existing law provides for specified percentages to be paid to persons who bring an action to collect the civil penalties. Existing law provides for a statute of limitations for fraud of 3 years from the date of discovery of the facts constituting the fraud.

This bill would provide that civil penalties are for each fraudulent claim presented to an insurance company by a defendant being sued for the civil penalties. This bill would provide that for the person filing the civil action the amount to be rewarded to the person by the court from the proceeds of the action shall be at least 30% but not more than 40%, or a specified amount of the proceeds, if the Attorney General, district attorney, or Insurance Commissioner intervenes and proceeds with the action, and at least 40% but no more than 50% if the Attorney General, district attorney, or Insurance Commissioner does not intervene and proceed with the action. The bill would place a maximum on the statute of limitations for an action for the civil penalties of 8 years from the date of specified violations.

(2) Existing law makes it a crime to file or aid in the filing of false insurance claims.

This bill would require a district attorney when he or she files a criminal complaint for violation of specified Penal Code provisions relating to false insurance claims to provide specified notice to the affected insurers, the victims, and the Department of Motor Vehicles. The bill would require insurers who receive the notification to rebate any surcharges, as specified, paid by an insured victim, and for the Department of Motor Vehicles to remove any record of the underlying accident that is on the license record of a victim. By requiring the district attorney to provide notification to insurers and to the Department of Motor Vehicles in these circumstances, this bill would impose a state-mandated local program. By requiring premium rebates the bill would amend Proposition 103.

(3) Existing law requires each insurer in this state to pay an annual fee to be determined by the Insurance Commissioner, but not to exceed \$1 annually, for each vehicle insured under an insurance policy it issues in this state in order to fund increased investigation and prosecution efforts by district

attorneys and other law enforcement agencies of fraudulent automobile insurance claims and economic automobile theft. Existing law requires the commissioner to award 51% of the assessment fees to district attorneys.

This bill would require the commissioner to conduct a fiscal ~~and performance~~ audit of the programs administered by district attorneys under these provisions at least once every 3 years. The bill would require the cost of the fiscal ~~and performance~~ audit to be shared equally between the Department of Insurance and the district attorney, thus imposing a state-mandated local program. This bill would also establish an advisory committee within the bureau to make recommendations to the commissioner regarding criteria for the ~~administration of assessment funds awarded grants~~ to district attorneys under these provisions.

(4) Existing law requires the Medical Board of California, the Board of Chiropractic Examiners, and the State Bar to designate employees to investigate and report on possible fraudulent insurance activities. Existing law requires each of those entities to report annually to relevant legislative committees regarding their activities in this regard for the previous year.

This bill would specify the minimum contents required to be included in each of those annual reports.

(5) Existing law regulates motor vehicle theft and motor vehicle insurance fraud reporting.

This bill would establish, until January 1, 2006, a program of 3 to 6 ~~urban~~ grants for district attorneys targeted at *the prosecution and elimination of* automobile insurance fraud rings. The program would be funded by the imposition on each insurer doing business in the state of an annual fee, not to exceed 50¢, to be determined by the commissioner, for each vehicle insured under an insurance policy issued by the insurer in the state.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other

procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(7) This bill would declare it furthers the purposes of Proposition 103. Because this bill would amend Proposition 103, it is required to further the purposes of Proposition 103 and would require a $\frac{2}{3}$ vote for enactment.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) This act shall be known as the
2 Organized Crime Prevention and Victim Protection Act
3 of 1999.

4 (b) The Legislature finds that organized automobile
5 insurance fraud rings operating in the major urban
6 centers of the state represent a significant portion of all
7 individual fraud-related automobile insurance cases.
8 These cases result in artificially higher insurance
9 premiums for core urban areas and low-income areas of
10 the state than for other areas of the state. Only a focused,
11 coordinated effort by all appropriate agencies and
12 organizations can effectively deal with this problem.

13 SEC. 2. Section 1871.7 of the Insurance Code is
14 amended to read:

15 1871.7. (a) It is unlawful to knowingly employ
16 runners, cappers, steerers, or other persons to procure
17 clients or patients to perform or obtain services or
18 benefits pursuant to Division 4 (commencing with
19 Section 3200) of the Labor Code or to procure clients or
20 patients to perform or obtain services or benefits under
21 a contract of insurance or that will be the basis for a claim
22 against an insured individual or his or her insurer.

23 (b) Every person who violates any provision of this
24 section or Section 549, 550, or 551 of the Penal Code shall
25 be subject, in addition to any other penalties that may be

1 prescribed by law, to a civil penalty of not less than five
2 thousand dollars (\$5,000) nor more than ten thousand
3 dollars (\$10,000), plus an assessment of not more than
4 three times the amount of each claim for compensation,
5 as defined in Section 3207 of the Labor Code or pursuant
6 to a contract of insurance. The court shall have the power
7 to grant other equitable relief, including temporary
8 injunctive relief, as is necessary to prevent the transfer,
9 concealment, or dissipation of illegal proceeds, or to
10 protect the public. The penalty prescribed in this
11 paragraph shall be assessed for each fraudulent claim
12 presented to an insurance company by a defendant and
13 not for each violation.

14 (c) The penalties set forth in subdivision (b) are
15 intended to be remedial rather than punitive, and shall
16 not preclude, nor be precluded by, a criminal prosecution
17 for the same conduct. If the court finds, after considering
18 the goals of disgorging unlawful profit, restitution,
19 compensating the state for the costs of investigation and
20 prosecution, and alleviating the social costs of increased
21 insurance rates due to fraud, that such a penalty would be
22 punitive and would preclude, or be precluded by, a
23 criminal prosecution, the court shall reduce that penalty
24 appropriately.

25 (d) The Attorney General, district attorney, or
26 commissioner may bring a civil action under this section.
27 Before the commissioner may bring that action, the
28 commissioner shall be required to present the evidence
29 obtained to the appropriate local district attorney for
30 possible criminal or civil filing. If the district attorney
31 elects not to pursue the matter due to insufficient
32 resources, then the commissioner may proceed with the
33 action.

34 (e) (1) Any interested persons, including an insurer,
35 may bring a civil action for a violation of this section for
36 the person and for the State of California. The action shall
37 be brought in the name of the state. The action may be
38 dismissed only if the court and the Attorney General, the
39 district attorney, or the commissioner, whichever is

1 participating, give written consent to the dismissal and
2 their reasons for consenting.

3 (2) A copy of the complaint and written disclosure of
4 substantially all material evidence and information the
5 person possesses shall be served on the state. The
6 complaint shall be filed in camera, shall remain under seal
7 for at least 60 days, and shall not be served on the
8 defendant until the court so orders. The Attorney
9 General, local district attorney, or commissioner may
10 elect to intervene and proceed with the action within 60
11 days after he or she receives both the complaint and the
12 material evidence and information. If more than one
13 governmental entity elects to intervene, the Attorney
14 General shall have precedence, followed by the district
15 attorney.

16 (3) The Attorney General, district attorney, or
17 commissioner may, for good cause shown, move the court
18 for extensions of the time during which the complaint
19 remains under seal under paragraph (2). The motions
20 may be supported by affidavits or other submissions in
21 camera. The defendant shall not be required to respond
22 to any complaint filed under this section until 20 days
23 after the complaint is unsealed and served upon the
24 defendant.

25 (4) Before the expiration of the 60-day period or any
26 extensions obtained under paragraph (3), the Attorney
27 General, district attorney, or commissioner shall either:

28 (A) Proceed with the action, in which case the action
29 shall be conducted by the Attorney General, district
30 attorney, or commissioner.

31 (B) Notify the court that it declines to take over the
32 action, in which case the person bringing the action shall
33 have the right to conduct the action.

34 (5) When a person or governmental agency brings an
35 action under this section, no person other than the
36 Attorney General, district attorney, or commissioner may
37 intervene or bring a related action based on the facts
38 underlying the pending action unless that action is
39 authorized by another statute or common law.

1 (f) (1) If the Attorney General, district attorney, or
2 commissioner proceeds with the action, he or she shall
3 have the primary responsibility for prosecuting the
4 action, and shall not be bound by an act of the person
5 bringing the action. That person shall have the right to
6 continue as a party to the action, subject to the limitations
7 set forth in paragraph (2).

8 (2) (A) The Attorney General, district attorney, or
9 commissioner may dismiss the action notwithstanding
10 the objections of the person initiating the action if the
11 person has been notified by the Attorney General, district
12 attorney, or commissioner of the filing of the motion, and
13 the court has provided the person with an opportunity for
14 a hearing on the motion.

15 (B) The Attorney General, district attorney, or
16 commissioner may settle the action with the defendant
17 notwithstanding the objections of the person initiating
18 the action if the court determines, after a hearing, that
19 the proposed settlement is fair, adequate, and reasonable
20 under all the circumstances. Upon a showing of good
21 cause, the hearing may be held in camera.

22 (C) Upon a showing by the Attorney General, district
23 attorney, or commissioner that unrestricted participation
24 during the course of the litigation by the person initiating
25 the action would interfere with or unduly delay the
26 Attorney General's, district attorney's, or commissioner's
27 prosecution of the case, or would be repetitious,
28 irrelevant, or for purposes of harassment, the court may,
29 in its discretion, impose limitations on the person's
30 participation, including, but not limited to, the following:

31 (i) Limiting the number of witnesses the person may
32 call.

33 (ii) Limiting the length of the testimony of those
34 witnesses.

35 (iii) Limiting the person's cross-examination of
36 witnesses.

37 (iv) Otherwise limiting the participation by the
38 person in the litigation.

39 (D) Upon a showing by the defendant that
40 unrestricted participation during the course of the

1 litigation by the person initiating the action would be for
2 purposes of harassment or would cause the defendant
3 undue burden or unnecessary expense, the court may
4 limit the participation by the person in the litigation.

5 (3) If the Attorney General, district attorney, or
6 commissioner elects not to proceed with the action, the
7 person who initiated the action shall have the right to
8 conduct the action. If the Attorney General, district
9 attorney, or commissioner so requests, he or she shall be
10 served with copies of all pleadings filed in the action and
11 shall be supplied with copies of all deposition transcripts,
12 at the Attorney General's, district attorney's, or
13 commissioner's expense. When a person proceeds with
14 the action, the court, without limiting the status and
15 rights of the person initiating the action, may
16 nevertheless permit the Attorney General, district
17 attorney, or commissioner to intervene at a later date
18 upon a showing of good cause.

19 (4) If at any time both a civil action for penalties and
20 equitable relief pursuant to this section and a criminal
21 action are pending against a defendant for substantially
22 the same conduct, whether brought by the government
23 or a private party, the civil action shall be stayed until the
24 criminal action has been concluded at the trial court
25 level. The stay shall not preclude the court from granting
26 or enforcing temporary equitable relief during the
27 pendency of the actions. Whether or not the Attorney
28 General, district attorney, or commissioner proceeds
29 with the action, upon a showing by the Attorney General,
30 district attorney, or commissioner that certain actions of
31 discovery by the person initiating the action would
32 interfere with a law enforcement or governmental
33 agency investigation or prosecution of a criminal or civil
34 matter arising out of the same facts, the court may stay
35 discovery for a period of not more than 180 days. A
36 hearing on a request for the stay shall be conducted in
37 camera. The court may extend the 180-day period upon
38 a further showing in camera that the agency has pursued
39 the criminal or civil investigation or proceedings with
40 reasonable diligence and any proposed discovery in the

1 civil action will interfere with the ongoing criminal or
2 civil investigation or proceedings.

3 (5) Notwithstanding subdivision (e), the Attorney
4 General, district attorney, or commissioner may elect to
5 pursue its claim through any alternate remedy available
6 to the Attorney General, district attorney, or
7 commissioner.

8 (g) (1) (A) If the Attorney General, district
9 attorney, or commissioner proceeds with an action
10 brought by a person under subdivision (e), that person
11 shall, subject to subparagraph (B), receive at least 30
12 percent but not more than 40 percent of the amount
13 determined pursuant to subparagraph (D) of the
14 proceeds of the action or settlement of the claim,
15 depending upon the extent to which the person
16 substantially contributed to the prosecution of the action.

17 (B) Where the action is one that the court finds to be
18 based primarily on disclosures of specific information,
19 other than information provided by the person bringing
20 the action, relating to allegations or transactions in a
21 criminal, civil, or administrative hearing, in a legislative
22 or administrative report, hearing, audit, or investigation,
23 or from the news media, the court may award those sums
24 that it considers appropriate, but in no case more than 10
25 percent of the proceeds, taking into account the
26 significance of the information and the role of the person
27 bringing the action in advancing the case to litigation.

28 (C) Any payment to a person under subparagraph (A)
29 or under subparagraph (B) shall be made from the
30 proceeds. The person shall also receive an amount for
31 reasonable expenses that the court finds to have been
32 necessarily incurred, plus reasonable attorney's fees and
33 costs. All of those expenses, fees, and costs shall be
34 awarded against the defendant.

35 (D) If the person that brought the action as a result of
36 a violation of this section has paid money to the defendant
37 or to an attorney acting on behalf of the defendant in the
38 underlying claim, then he or she shall be entitled to up to
39 double the amount paid to the defendant or the attorney
40 if that amount is greater than 40 percent of the proceeds.

1 (2) (A) If the Attorney General, district attorney, or
2 commissioner does not proceed with an action under this
3 section, the person bringing the action or settling the
4 claim shall receive an amount that the court decides is
5 reasonable for collecting the civil penalty and damages.
6 Except as provided in subparagraph (B), the amount
7 shall not be less than 40 percent and not more than 50
8 percent of the proceeds of the action or settlement and
9 shall be paid out of the proceeds.

10 (B) If the person bringing the action, as a result of a
11 violation of this section has paid money to the defendant
12 or to an attorney acting on behalf of the defendant in the
13 underlying claim, then he or she shall be entitled to up to
14 double the amount paid to the defendant or the attorney
15 if that amount is greater than 50 percent of the proceeds.
16 That person shall also receive an amount for reasonable
17 expenses that the court finds to have been necessarily
18 incurred, plus reasonable attorney's fees and costs. All of
19 those expenses, fees, and costs shall be awarded against
20 the defendant.

21 (3) If a local district attorney has proceeded with an
22 action under this section, one-half of the penalties not
23 awarded to a private party, as well as any costs awarded
24 shall go to the treasurer of the appropriate county. Those
25 funds shall be used to investigate and prosecute fraud,
26 augmenting existing budgets rather than replacing them.
27 All remaining funds shall go to the state and be deposited
28 in the General Fund and, when appropriated by the
29 Legislature, shall be apportioned between the
30 Department of Justice and the Department of Insurance
31 for enhanced fraud investigation and prevention efforts.

32 (4) Whether or not the Attorney General, district
33 attorney, or commissioner proceeds with the action, if the
34 court finds that the action was brought by a person who
35 planned and initiated the violation of this section, that
36 person shall be dismissed from the civil action and shall
37 not receive any share of the proceeds of the action. The
38 dismissal shall not prejudice the right of the Attorney
39 General, district attorney, or commissioner to continue
40 the action on behalf of the state.

(5) If the Attorney General, district attorney, or commissioner does not proceed with the action, and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorney's fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(h) (1) In no event may a person bring an action under subdivision (e) that is based upon allegations or transactions that are the subject of a civil suit or an administrative civil money penalty proceeding in which the Attorney General, district attorney, or commissioner is already a party.

(2) (A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing in a legislative or administrative report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

(B) For purposes of this paragraph, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Attorney General, district attorney, or commissioner before filing an action under this section which is based on the information.

(i) Except as provided in subdivision (j), the Attorney General, district attorney, or commissioner is not liable for expenses that a person incurs in bringing an action under this section.

(j) In civil actions brought under this section in which the Attorney General, the Insurance Commissioner, or a district attorney is a party, the court shall retain discretion to impose sanctions otherwise allowed by law, including the ability to order a party to pay expenses as provided in Sections 128.5 and 1028.5 of the Code of Civil Procedure.

1 (k) Any employee who is discharged, demoted,
2 suspended, threatened, harassed, or in any other manner
3 discriminated against in the terms and conditions of
4 employment by his or her employer because of lawful acts
5 done by the employee on behalf of the employee or
6 others in furtherance of an action under this section,
7 including investigation for, initiation of, testimony for, or
8 assistance in an action filed or to be filed under this
9 section, shall be entitled to all relief necessary to make the
10 employee whole. That relief shall include reinstatement
11 with the same seniority status the employee would have
12 had but for the discrimination, two times the amount of
13 backpay, interest on the backpay, and compensation for
14 any special damages sustained as a result of the
15 discrimination, including litigation costs and reasonable
16 attorney's fees. An employee may bring an action in the
17 appropriate superior court for the relief provided in this
18 subdivision. The remedies under this section are in
19 addition to any other remedies provided by existing law.

20 (l)(1) An action pursuant to this section may not be
21 filed more than three years after the discovery of the facts
22 constituting the grounds for commencing the action.

23 (2) Notwithstanding paragraph (1) no action may be
24 filed pursuant to this section more than eight years after
25 the commission of the act constituting a violation of this
26 section or a violation of Section 549, 550, or 551 of the
27 Penal Code.

28 SEC. 3. Section 1872.4 of the Insurance Code is
29 amended to read:

30 1872.4. (a) Any company licensed to write insurance
31 in this state that believes that a fraudulent claim is being
32 made shall, within 60 days after determination by the
33 insurer that the claim appears to be a fraudulent claim,
34 send to the Bureau of Fraudulent Claims, on a form
35 prescribed by the department, the information requested
36 by the form and any additional information relative to the
37 factual circumstances of the claim and the parties
38 claiming loss or damages that the commissioner may
39 require. The Bureau of Fraudulent Claims shall review
40 each report and undertake further investigation it deems

1 necessary and proper to determine the validity of the
2 allegations. Whenever the commissioner is satisfied that
3 fraud, deceit, or intentional misrepresentation of any
4 kind has been committed in the submission of the claim,
5 he or she shall report the violations of law to the insurer,
6 to the appropriate licensing agency, and to the district
7 attorney of the county in which the offenses were
8 committed, as provided by Sections 12928 and 12930. If
9 the commissioner is satisfied that fraud, deceit, or
10 intentional misrepresentation has not been committed,
11 he or she shall report that determination to the insurer.
12 If prosecution by the district attorney concerned is not
13 begun within 60 days of the receipt of the commissioner's
14 report, the district attorney shall inform the
15 commissioner and the insurer as to the reasons for the
16 lack of prosecution regarding the reported violations.

17 (b) This section shall not require an insurer to submit
18 to the bureau the information specified in subdivision (a)
19 in either of the following instances:

20 (1) The insurer's initial investigation indicated a
21 potentially fraudulent claim but further investigation
22 revealed that it was not fraudulent.

23 (2) The insurer and the claimant have reached
24 agreement as to the amount of the claim and the insurer
25 does not have reasonable grounds to believe that claim to
26 be fraudulent.

27 (c) Nothing contained in this article shall relieve an
28 insurer of its existing obligations to also report suspected
29 violations of law to appropriate local law enforcement
30 agencies.

31 (d) Any police, sheriff, disciplinary body governed by
32 the provisions of the Business and Professions Code, or
33 other law enforcement agency shall furnish all papers,
34 documents, reports, complaints, or other facts or
35 evidence to the Bureau of Fraudulent Claims, when so
36 requested, and shall otherwise assist and cooperate with
37 the bureau.

38 (e) If an insurer, at the time the insurer, pursuant to
39 subdivision (a) forwards to the Bureau of Fraudulent
40 Claims information on a claim that appears to be

1 fraudulent, has no evidence to believe the insured on that
2 claim is involved with the fraud, the insurer shall take all
3 necessary steps to assure that no surcharge is added to the
4 insured's premium because of the claim.

5 SEC. 4. Section 1872.45 is added to the Insurance
6 Code, to read:

7 1872.45. A district attorney who files a criminal
8 complaint pursuant to Section 549 or 550 of the Penal
9 Code shall promptly do all of the following:

10 (a) Notify each insurer affected by the acts that are the
11 subject of the criminal complaint of the existence of the
12 complaint and the names of all persons insured by the
13 insurer who are the victims.

14 (b) Notwithstanding any other provision of law, when
15 an insurer receives notification pursuant to subdivision
16 (a), and the insurer has increased the premiums of a
17 person who is a victim because of a claim that is the
18 subject of the criminal complaint, the insurer shall
19 promptly rebate to that person the increased premiums
20 that were charged to and paid by that person.

21 (c) Notify the Department of Motor Vehicles of the
22 criminal complaint and the names of all persons who are
23 the victims.

24 (d) Notify all the persons who are the victims in simple
25 understandable language that a criminal complaint has
26 been filed and that subdivision (b) of Section 1806 of the
27 Vehicle Code requires the Department of Motor Vehicles
28 not to record the accident on the record of the victim.

29 SEC. 5. Section 1872.8 of the Insurance Code is
30 amended to read:

31 1872.8. (a) Each insurer doing business in this state
32 shall pay an annual fee to be determined by the
33 commissioner, but not to exceed one dollar (\$1) annually
34 for each vehicle insured under an insurance policy it
35 issues in this state, in order to fund increased investigation
36 and prosecution of fraudulent automobile insurance
37 claims and economic automobile theft. Thirty-four
38 percent of those funds received from ninety-five cents
39 (\$0.95) of the assessment fee per insured vehicle shall be
40 distributed to the Bureau of Fraudulent Claims for

1 enhanced investigative efforts, 15 percent of that
2 ninety-five cents (\$0.95) shall be deposited in the Motor
3 Vehicle Account for appropriation to the Department of
4 the California Highway Patrol for enhanced prevention
5 and investigative efforts to deter economic automobile
6 theft, and 51 percent of the funds shall be distributed to
7 district attorneys for purposes of investigation and
8 prosecution of automobile insurance fraud cases,
9 including fraud involving economic automobile theft.

10 (b) The commissioner shall award funds to district
11 attorneys according to population. The commissioner
12 may alter this distribution formula as necessary to achieve
13 the most effective distribution of funds. Each local district
14 attorney desiring a portion of those funds shall submit to
15 the commissioner an application detailing the proposed
16 use of any moneys that may be provided. The application
17 shall include a detailed accounting of assessment funds
18 received and expended in prior years, including at a
19 minimum (1) the amount of funds received and
20 expended; (2) the uses to which those funds were put,
21 including payment of salaries and expenses, purchase of
22 equipment and supplies, and other expenditures by type;
23 (3) results achieved as a consequence of expenditures
24 made, including the number of investigations, arrests,
25 complaints filed, convictions, and the amounts originally
26 claimed in cases prosecuted compared to payments
27 actually made in those cases; and (4) other relevant
28 information as the commissioner may reasonably require.
29 Any district attorney who fails to submit an application
30 within 90 days of the commissioner's deadline for
31 applications shall be subject to loss of distribution of the
32 money. The commissioner may consider
33 recommendations and advice of the bureau and the
34 Commissioner of the California Highway Patrol in
35 allocating moneys to local district attorneys. Any district
36 attorney that receives funds shall submit an annual report
37 to the commissioner, which may be made public, as to the
38 success of the program administered. The report shall
39 provide information and statistics on the number of
40 active investigations, arrests, indictments, and

1 convictions. Both the application for moneys and the
2 distribution of moneys shall be public documents. The
3 commissioner shall conduct a fiscal~~—and—performance~~
4 audit of the programs administered under this
5 subdivision at least once every three years. The cost of a
6 fiscal~~—and—performance~~ audit shall be shared equally
7 between the department and the district attorney.
8 Information submitted to the commissioner pursuant to
9 this section concerning criminal investigations, whether
10 active or inactive, shall be confidential.

11 (c) The remaining five cents (\$0.05) shall be spent for
12 enhanced automobile insurance fraud investigation by
13 the bureau.

14 (d) Except for funds to be deposited in the Motor
15 Vehicle Account for allocation to the Department of the
16 California Highway Patrol for purposes of the Motor
17 Vehicle Prevention Act, (Chapter 5 (commencing with
18 Section 10900) of Division 4 of the Vehicle Code), the
19 funds received under this section shall be deposited in the
20 Insurance Fund and be expended and distributed when
21 appropriated by the Legislature.

22 (e) In the course of its investigations, the Bureau of
23 Fraudulent Claims shall aggressively pursue all reported
24 incidents of probable fraud and, in addition, shall forward
25 to the appropriate disciplinary body the names of any
26 individuals licensed under the Business and Professions
27 Code who are suspected of actively engaging in
28 fraudulent activity along with all relevant supporting
29 evidence.

30 (f) As used in this section “economic automobile
31 theft” means automobile theft perpetrated for financial
32 gain, including, but not limited to, the following:

33 (1) Theft of a motor vehicle for financial gain.

34 (2) Reporting that a motor vehicle has been stolen for
35 the purpose of filing a false insurance claim.

36 (3) Engaging in any act prohibited by Chapter 3.5
37 (commencing with Section 10801) of Division 4 of the
38 Vehicle Code.

39 (4) Switching of vehicle identification numbers to
40 obtain title to a stolen motor vehicle.

SEC. 6. Section 1872.81 is added to the Insurance Code, to read:

1872.81. (a) There is created within the Bureau of Fraudulent Claims an advisory committee to make recommendations to the commissioner regarding criteria for the ~~administration of funds awarded grants~~ to district attorneys under subdivision (b) of Section 1872.8 and Section 1874.8. The advisory committee shall be comprised of an equal number of representatives of the department, the Bureau of Fraudulent Claims, the Department of the California Highway Patrol, the district attorneys, and the automobile insurance industry.

(b) The criteria referred to in subdivision (a) shall include all of the following:

~~(1) Criteria regarding the ratio in a district attorney's office of investigators to attorneys.~~

(1) Criteria addressing the effective utilization of the ratio of investigators to attorneys taking into consideration the enforcement plan proposed by the district attorney applicant.

(2) Criteria regarding allowable administrative costs.

~~(3) Criteria regarding performance standards.~~

(3) Criteria for benchmarks for successful performance recognizing the specific objective of this grant program.

(4) Criteria regarding the standard reporting of data by all district attorneys in their annual reports under subdivision (b) of Section 1872.8.

(c) The recommendations shall be made within 120 days of the effective date of this section.

(d) The commissioner may add any additional criteria deemed necessary for the efficient and effective administration of this program.

SEC. 7. Section 1872.95 of the Insurance Code is amended to read:

1872.95. (a) Within existing resources, the Medical Board of California, the Board of Chiropractic Examiners, and the State Bar shall each designate employees to investigate and report on possible fraudulent activities relating to workers' compensation, motor vehicle

1 insurance, or disability insurance by licensees of the
2 board or the bar. Those employees shall actively
3 cooperate with the bureau in the investigation of those
4 activities.

5 (b) The Medical Board of California, the Board of
6 Chiropractic Examiners, and the State Bar shall each
7 report annually, on or before March 1, to the committees
8 of the Senate and Assembly having jurisdiction over
9 insurance on their activities established pursuant to
10 subdivision (a) for the previous year. That report shall
11 specify, at a minimum, the number of cases investigated,
12 the number of cases forwarded to the bureau or other law
13 enforcement agencies, the outcome of all cases listed in
14 the report, and any other relevant information
15 concerning those cases or general activities conducted
16 under subdivision (a) for the previous year. The report
17 shall include information regarding activities conducted
18 in connection with cases of suspected automobile
19 insurance fraud.

20 SEC. 8. Section 1874.8 is added to the Insurance Code,
21 to read:

22 1874.8. (a) Each insurer doing business in this state
23 shall pay an annual fee to be determined by the
24 commissioner, but not to exceed fifty cents (\$0.50)
25 annually for each vehicle insured under an insurance
26 policy it issues in this state, in order to fund the Bureau
27 of Fraudulent Claims and *a Fraud Ring Interdiction*
28 *Program. The commissioner shall award three to six*
29 ~~urban~~ grants for a program targeted at *the successful*
30 *prosecution and elimination of* automobile insurance
31 fraud rings. The grants may only be awarded to district
32 attorneys.

33 (b) In determining whether to award a district
34 attorney—~~an urban~~ a grant, the commissioner shall
35 consider factors indicating automobile insurance fraud
36 ring activity in the district attorney's county, including,
37 but not limited to, the county's level of general criminal
38 activity, population density, automobile insurance claims
39 frequency, number of suspected fraudulent claims, and

1 prior and current evidence of automobile insurance fraud
2 rings.

3 (c) A grantee of ~~an urban~~ a grant referred to in
4 subdivision (a) shall coordinate its efforts and work in
5 conjunction with the bureau and all interested insurers in
6 this regard. Of the funds collected pursuant to this
7 section, 25 percent shall be distributed to the Bureau of
8 Fraudulent Claims to be used to fund bureau
9 investigators ~~that~~ who shall be assigned to work solely in
10 conjunction with district attorneys who are awarded
11 ~~urban~~ grants pursuant to this section. Each grantee shall
12 be notified by the Bureau of Fraudulent Claims of the
13 investigators assigned to work with the grantee, and the
14 investigators shall be located in the office of the grantee.
15 *Nothing shall prohibit the referral of any cases developed*
16 *by the Bureau of Fraudulent Claims under Section 1872.8*
17 *to the district attorney units funded under this section.*

18 (d) A grant under this section shall be for a period of
19 three years and shall be subject *where applicable* to the
20 requirements of subdivision (b) of Section 1872.8, except
21 for the requirement that ~~funds~~ grants be awarded
22 according to population.

23 (e) *There shall be no prohibition against a joint*
24 *application by two or more district attorneys for a grant*
25 *award under this section.*

26 (f) The bureau shall report, on or before January 1,
27 2005, to the committees of the Senate and Assembly
28 having jurisdiction over insurance on the results of the
29 grant program established by this section.

30 (f)

31 (g) This section shall remain in effect only until
32 January 1, 2006, and as of that date is repealed, unless a
33 later enacted statute, that is enacted before January 1,
34 2006, deletes or extends that date.

35 SEC. 9. Section 1806 of the Vehicle Code is amended
36 to read:

37 1806. (a) The department shall file all accident
38 reports and abstracts of court records of convictions
39 received under this code, and in connection therewith,
40 shall maintain convenient records or make suitable

1 notations in order that an individual record of each
2 license showing the convictions of the licensee and all
3 traffic accidents in which the individual was involved,
4 except those where, in the opinion of a reporting officer,
5 another individual was at fault, are readily ascertainable.
6 At its discretion the department may file and maintain
7 these accident reports and abstracts by electronic
8 recording and storage media and after transcribing
9 electronically all available data from the accident reports
10 and abstracts of conviction may destroy the original
11 documents. Notwithstanding any other provisions of law,
12 the recorded facts from any electronic recording and
13 storage device maintained by the department shall
14 constitute evidence of the facts in any administrative
15 actions instituted by the department.

16 (b) When the department receives notification
17 pursuant to subdivision (c) of Section 1872.45 of the
18 Insurance Code, the department shall remove from the
19 license record of each victim any record of his or her
20 involvement in the accident which is the subject of the
21 criminal complaint.

22 SEC. 10. Notwithstanding any other provision of law,
23 the Department of Insurance is authorized to and shall
24 adopt emergency regulations to implement the
25 provisions of this act.

26 SEC. 11. The Legislature finds and declares that this
27 ~~bill~~ *act* furthers the purposes of Proposition 103 as
28 approved by the electorate on November 8, 1988.

29 SEC. 12. Notwithstanding Section 17610 of the
30 Government Code, if the Commission on State Mandates
31 determines that this act contains costs mandated by the
32 state, reimbursement to local agencies and school
33 districts for those costs shall be made pursuant to Part 7
34 (commencing with Section 17500) of Division 4 of Title
35 2 of the Government Code. If the statewide cost of the
36 claim for reimbursement does not exceed one million
37 dollars (\$1,000,000), reimbursement shall be made from
38 the State Mandates Claims Fund.

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